
By: **Delegates Harrison, Fulton, Kirk, C. Davis, Krysiak, Dobson, McHale, Cole, and Rawlings**

Introduced and read first time: February 14, 2001

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Small Business Development Financing Authority**

3 FOR the purpose of establishing that one purpose of the Maryland Small Business
4 Development Financing Authority (MSBDFA) is to assist individuals who do not
5 meet the established credit criteria of banks and are therefore unable to obtain
6 adequate business financing on reasonable terms; establishing that an
7 individual who lacks sufficient liquidity or tangible assets to obtain business
8 financing in the form of a bank loan qualifies as lacking financial capacity under
9 the standards for applicants seeking to qualify for Contract Financing Fund
10 Financial Assistance; altering the maximum amount of an MSBDFA loan that
11 may be guaranteed using the Guaranty Fund; and generally relating to
12 MSBDFA financial assistance.

13 BY repealing and reenacting, with amendments,
14 Article 83A - Department of Business and Economic Development
15 Section 5-1002, 5-1025, and 5-1029(a)
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 2000 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article 83A - Department of Business and Economic Development**

21 5-1002.

22 (a) The General Assembly finds that:

23 (1) The inability of socially or economically disadvantaged persons to
24 obtain working capital is a major limitation on their opportunity to win and perform
25 government and other contracts;

26 (2) In many instances on record, a socially or economically
27 disadvantaged person has been awarded a government or other contract, but has

1 lacked the working capital to post a performance bond, buy supplies needed to begin
2 the work, or pay employees and, therefore, has been unable to accept the contract;

3 (3) Certain persons are unable to obtain government and other contracts
4 for reasons other than the cost to the owner or the ability of the person to perform the
5 contract work competently;

6 (4) In many instances on record, socially or economically disadvantaged
7 persons lack adequate capital to sustain and expand their businesses and to hire and
8 train employees;

9 (5) High risk, problem, or uncollectible loans are not in the interest of a
10 financial institution and, therefore, financial institutions generally are reluctant to
11 lend money to socially or economically disadvantaged persons with insufficient
12 records of performance;

13 (6) The inability of businesses owned by socially or economically
14 disadvantaged persons to obtain long-term financing is a major limitation upon their
15 opportunity to survive and expand; and

16 (7) It is in the interest of the public welfare and purpose to promote the
17 viability and expansion of businesses owned by economically or socially
18 disadvantaged persons, to retain or increase the employment of economically or
19 socially disadvantaged persons, and to provide a larger taxable base for the economy
20 of this State.

21 (b) The purposes of the Authority are:

22 (1) To assist socially or economically disadvantaged persons to obtain
23 working capital that is adequate to begin, continue, and complete projects, the
24 majority of funding for which is provided by government entities or utilities;

25 (2) To encourage socially or economically disadvantaged persons to seek
26 government and other contracts; [and]

27 (3) TO ASSIST INDIVIDUALS THAT DO NOT MEET THE ESTABLISHED
28 CREDIT CRITERIA OF BANKS AND ARE THEREFORE UNABLE TO OBTAIN ADEQUATE
29 BUSINESS FINANCING ON REASONABLE TERMS; AND

30 [(3)] (4) To encourage financial institutions to make loans to these
31 persons.

32 5-1025.

33 (a) To qualify for financial assistance under §§ 5-1021 through 5-1024 of this
34 subtitle, an applicant shall meet the requirements of this section.

35 (b) If the applicant is an individual, the applicant shall satisfy the Authority
36 that:

- 1 (1) The applicant is of good moral character;
- 2 (2) As determined from creditors, employers, and other individuals who
3 have personal knowledge of the applicant, the applicant has a reputation for financial
4 responsibility;
- 5 (3) The applicant is a resident of Maryland or the applicant's principal
6 place of business is in Maryland; and
- 7 (4) The applicant is unable to obtain adequate business financing on
8 reasonable terms through normal lending channels because the applicant:
- 9 (i) Belongs to a group that historically has been deprived of access
10 to normal economic or financial resources because of race, color, creed, sex, religion, or
11 national origin;
- 12 (ii) Has an identifiable physical handicap that severely limits the
13 ability of the applicant to obtain financial assistance, but does not limit the ability of
14 the applicant to perform the contract or other activity for which the applicant would
15 be receiving financial assistance; or
- 16 (iii) Has any other social or economic impediment [that is beyond
17 the personal control of the applicant, such as lack of formal education or financial
18 capacity or geographical or regional economic distress but] that does not limit the
19 ability of the applicant to perform the contract or other activity for which the
20 applicant would be receiving financial assistance AND THAT IS BEYOND THE
21 PERSONAL CONTROL OF THE APPLICANT, SUCH AS:
- 22 1. LACK OF FORMAL EDUCATION;
- 23 2. GEOGRAPHICAL OR REGIONAL ECONOMIC DISTRESS; OR
- 24 3. LACK OF FINANCIAL CAPACITY, INCLUDING A LACK OF
25 SUFFICIENT LIQUIDITY OR TANGIBLE ASSETS TO OBTAIN FROM A BANK ADEQUATE
26 BUSINESS FINANCING ON REASONABLE TERMS.
- 27 (c) If the applicant is other than a sole proprietorship, at least 70 percent of
28 the business enterprise shall be owned by individuals who meet the qualifications for
29 applicants under subsection (b) of this section.
- 30 (d) In addition to the other requirements of this section, an applicant for a
31 guarantee of a loan shall have applied for and been denied a loan by a financial
32 institution.

33 5-1029.

- 34 (a) The Authority may utilize the Guaranty Fund to guarantee up to 80
35 percent of the principal of and interest on a long-term loan made by a financial
36 institution to an applicant only if:

1 (1) The applicant meets the requirements of § 5-1025 and has not
2 violated any provisions of § 5-1031 of this subtitle;

3 (2) The loan amount is not less than \$5,000 and the maximum amount
4 payable by the Authority under its guarantee does not exceed [\$600,000] \$1,000,000;

5 (3) The purposes for which the loan is to be used include:

6 (i) Working capital;

7 (ii) The acquisition and related installation of machinery or
8 equipment;

9 (iii) Necessary improvements to real property leased or owned in fee
10 simple by the applicant; or

11 (iv) The acquisition of real property to be owned in fee simple by the
12 applicant if:

13 1. The real property is to be used in the operation of the
14 applicant's trade or business for which the loan and guarantee are sought; and

15 2. A lien is placed on the real property by the financial
16 institution or the Authority;

17 (4) The loan shall mature in not more than 10 years from the date of
18 closing of the loan; and

19 (5) The rate of interest on the loan is no greater than the rate of interest
20 determined by the Authority to be the monthly weighted average of the prime lending
21 rate, plus 2 percent, prevailing from time to time in the City of Baltimore on
22 unsecured commercial loans.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2001.